

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Darya Kabakova	Team: Team # 4	CCRB Case #: 200700538	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 01/11/2007 11:45 PM	Location of Incident: On Union Street and East 98th Street	Precinct: 73	18 Mo. SOL 7/11/2008	EO SOL 7/11/2008	
Date/Time CV Reported Fri, 01/12/2007 7:56 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 01/12/2007 7:56 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vaughan Ettienne	29839	928258	PBBS AC
2. POM Pedro Bobe	23291	927936	PBBS AC
3. SGT Raymond Cotton	00335	911634	PBBS AC
4. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.POM Vaughan Ettienne	Abuse: PO Vaughan Ettienne stopped the car in which § 87(2)(b) was an occupant.	
B.POM Vaughan Ettienne	Force: PO Vaughan Ettienne used physical force against § 87(2)(b)	
C.POM Vaughan Ettienne	Force: PO Vaughan Ettienne struck § 87(2)(b) with a blunt instrument.	
D. An officer	Force: An officer struck § 87(2)(b) with a blunt instrument.	
E.POM Vaughan Ettienne	Discourtesy: PO Vaughan Ettienne spoke obscenely and/or rudely to § 87(2)(b)	
F.SGT Raymond Cotton	Abuse: Sergeant Raymond Cotton searched the car in which § 87(2)(b) was an occupant.	
G.POM Pedro Bobe	Abuse: PO Pedro Bobe searched the car in which § 87(2)(b) was an occupant.	
H.SGT Raymond Cotton	Force: Sergeant Raymond Cotton used pepper spray against § 87(2)(b)	
I.POM Vaughan Ettienne	Abuse: PO Vaughan Ettienne threatened § 87(2)(b) with the use of force.	

Synopsis

§ 87(2)(b) stated that on January 11, 2007, he was pulled over by three officers, identified by the CCRB as PO Vaughan Ettienne, PO Pedro Bobe, and Sergeant Raymond Cotton (allegation A). § 87(2)(b) was asked to exit the vehicle and after he complied, PO Ettienne asked him to step to the back of the vehicle. When § 87(2)(b) refused to do so, PO Ettienne used physical force against him, bringing him to the ground (allegation B). While § 87(2)(b) was on the ground, PO Ettienne and an unidentified officer struck him with a blunt instrument (allegations C and D). PO Ettienne also used discourteous language against § 87(2)(b) (allegation E). Meanwhile, Sergeant Cotton and PO Bobe searched § 87(2)(b)'s car (allegations F and G). Sergeant Cotton then pepper sprayed § 87(2)(b) (allegation H) and PO Ettienne threatened § 87(2)(b) with the use of force (allegation I). The officers then transported § 87(2)(b) to the 67th Precinct. After § 87(2)(b) informed officers that his § 87(2)(b) was an NYPD officer, he was released with a summons for § 87(2)(b).

§ 87(2)(g)

[REDACTED]

Summary of Complaint

§ 87(2)(b) called the CCRB on January 12, 2007 to file a complaint on behalf of her son, § 87(2)(b) about an incident that she herself did not witness (encl. 7A-B). § 87(2)(b) provided a telephone statement to the CCRB on January 19, 2007 (encl. 9A-B) and was interviewed at the CCRB on January 23, 2007 (encl. 10A-G). On January 13, 2007, § 87(2)(b) had called IAB to file a complaint and provided a telephone statement about the incident (encl. 8A-B). § 87(2)(g)

[REDACTED]

§ 87(2)(b) stated that on January 11, 2007, § 87(2)(b) was stopped three times by officers and questioned about the license plate of his vehicle, which was falling off. § 87(2)(b) did not have any complaints about the first two incidents but provided the following statements about the third incident.

At about 11:45pm, § 87(2)(b) was driving on Union Street in Brooklyn and turned onto Blake Avenue. He was pulled over on Blake Avenue by an unmarked car. An officer identified through investigation as PO Pedro Bobe approached § 87(2)(b) and asked for license and registration. § 87(2)(b) pointed out that he had been pulled over previously, assuming it was the same officers, but provided his license and registration. PO Bobe stated that it was not him and § 87(2)(b) agreed. At this time, two officers identified by the CCRB as PO Vaughan Ettienne and Sergeant Raymond Cotton approached § 87(2)(b)'s vehicle. An officer asked § 87(2)(b) about his license plate and § 87(2)(b) pointed out that he had placed it in his window because it had fallen off. PO Bobe asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) protested, asking if his information checked out, but PO Bobe asked § 87(2)(b) again to step out. § 87(2)(b) complied and as soon as he exited, PO

Ettienne asked him to step to the back of the car. § 87(2)(b) refused and asked why, saying that if this is a routine traffic stop, then the officers were supposed to check his information but that they had not.

PO Ettienne and § 87(2)(b) argued about this for a few minutes longer, until PO Ettienne, who had been standing on the passenger side of the vehicle, walked around to the driver's side. PO Ettienne grabbed § 87(2)(b)'s sweater in the shoulder and chest area with both hands and pulled him to the side. He then tossed § 87(2)(b) forward while tripping him with his leg against § 87(2)(b)'s right shin, such that § 87(2)(b) fell flat on the ground. PO Ettienne then grabbed § 87(2)(b)'s right arm, placed it behind his back and cuffed it. § 87(2)(b) was having trouble bringing his other arm out from beneath his body and PO Ettienne began pulling and hitting his arm and elbow with a blunt object. § 87(2)(b) was not resisting, but moved to try to see what was happening. An officer then hit § 87(2)(b) with a blunt object in the collarbone. § 87(2)(b) did not see which officer did this. PO Ettienne then resumed hitting § 87(2)(b) in the elbow with the blunt object. After PO Ettienne had been hitting § 87(2)(b) for two to three minutes, he placed a knee in § 87(2)(b)'s back, pulled out his arm and handcuffed it. As he did this, PO Ettienne said, "What the fuck did you think was going to happen? Who the fuck do you think you are?" PO Ettienne then stood up and kicked § 87(2)(b) in the left side twice. Another officer kicked § 87(2)(b)'s legs to bring them together, but he is unsure which officer did this. § 87(2)(b) moved his head and was able to see that PO Bobe and Sergeant Cotton were inside his car, searching it. An officer then pepper sprayed § 87(2)(b) who was still on the ground, twice. § 87(2)(b) did not see which officer pepper sprayed him. § 87(2)(b) was then left on the ground for three more minutes.

An officer then returned from the car and told § 87(2)(b) to stand up, and grabbed him by the left shoulder to get him up but could not do so. In his telephone statement, § 87(2)(b) stated that the officer said, "Stand the fuck up," but did not confirm this in his in person statement. He asked another officer to help and another officer grabbed § 87(2)(b)'s other shoulder so that § 87(2)(b) could get up. § 87(2)(b) was only able to see that PO Ettienne was on his left and did not see who the other officer was because his eyes were still stinging from the pepper spray. § 87(2)(b) protested that he had not done anything wrong. An officer said, "Get in the fucking car now," and PO Ettienne led him by the left arm and pushed him into the backseat of the unmarked car. § 87(2)(b) was sitting in the seat but could not place his legs inside because he was rear cuffed. PO Ettienne pushed § 87(2)(b) into the car again and said words to the effect of, "Put your fucking legs in the car before I break your ankles." § 87(2)(b) had not resisted getting into the car. PO Ettienne then got into the back seat with § 87(2)(b) and continued to curse at him while § 87(2)(b) continued protesting his stop. In his telephone statement, § 87(2)(b) said that PO Ettienne had said, "I'll fuck you up," but did not confirm this in his in person interview. § 87(2)(b) mentioned that his § 87(2)(b) is an NYPD officer and PO Ettienne asked for his PBA card. § 87(2)(b) informed him that it was in his wallet and PO Ettienne retrieved it. PO Ettienne then attempted to call § 87(2)(b)'s § 87(2)(b) using § 87(2)(b)'s cell phone. The other two officers meanwhile moved § 87(2)(b)'s car. They then returned to the car and began driving towards the 67th Precinct. § 87(2)(b) protested that the area was covered by a different precinct, but although PO Bobe acknowledged that he was correct, they continued to the 67th Precinct. In the parking lot of the Precinct, PO Ettienne poured water on § 87(2)(b)'s face from a bottle. § 87(2)(b) was held in a cell while PO Ettienne continued to try to contact § 87(2)(b)'s god brother. About 15 minutes after arriving at the Precinct, § 87(2)(b) was later released with a ticket for § 87(2)(b).

§ 87(2)(b) went to the hospital two days later because his elbow was swollen and he had trouble moving it. § 87(2)(b) did not specify what treatment he received at the hospital. § 87(2)(b) stated that he has no criminal record.

Results of Investigation

Officer Identification

PO Vaughan Ettienne was identified because § 87(2)(b) knew his name and because he is listed as § 87(2)(b)'s arresting officer on the 67th Precinct command log (encl. 21). PO Pedro Bobe and

Sergeant Raymond Cotton were listed as working in the same vehicle as PO Ettienne on the Patrol Borough Brooklyn South Anticrime Roll Call (encl. 20). All three officers fit § 87(2)(b)'s descriptions and admitted to being present during the incident.

Officer Accounts

PO Vaughan Ettienne

PO Vaughan Ettienne's memo book (encl. 13A-B) indicates that at 11:50pm on January 11, 2007, he stopped one male and transported him to the 67th Precinct at 11:55pm. At 1:15am, PO Ettienne prepared one summons for § 87(2)(b).

PO Ettienne was interviewed at the CCRB on May 23, 2007 (encl. 14A-C). He stated that on January 11, 2007, he was assigned to anticrime and worked with PO Pedro Bobe and Sergeant Raymond Cotton in plainclothes and an unmarked black sedan. PO Ettienne was driving the vehicle on East 98th Street when they observed a vehicle make a left turn without signaling. When he drove closer to the vehicle, he observed that it had very dark tinted windows and later noticed that it was missing the front license plate. PO Ettienne decided to pull over the vehicle. PO Ettienne pulled over the vehicle, exited the car and approached the driver. PO Bobe, who had been the front passenger, approached the vehicle on the passenger side and Sergeant Cotton exited the police car but did not approach the vehicle. PO Ettienne twice asked § 87(2)(b) to provide identification and § 87(2)(b) refused, although he complied with turning off the vehicle. § 87(2)(b) stated that he had been pulled over previously and appeared visibly upset. PO Ettienne then opened the unlocked vehicle door and asked § 87(2)(b) to step out, which he did. PO Ettienne asked § 87(2)(b) to step to the back of the vehicle because they were obstructing traffic and were in danger of getting hit by a car. § 87(2)(b) refused to step to the back of the vehicle and continued refusing to provide identification. PO Bobe began walking around the front of the car towards PO Ettienne and § 87(2)(b). PO Ettienne placed his hand lightly on § 87(2)(b)'s shoulder to direct him to the back of the vehicle, asking him to step to the back so that they could discuss the situation. § 87(2)(b) lifted his arm in such a way as to swipe PO Ettienne's arm out of the way and became very irate. § 87(2)(b) continued to refuse to provide identification and was saying, in an animated tone, that he was not going anywhere. Because § 87(2)(b) was combative, loud, and refused to cooperate, Sergeant Cotton directed PO Ettienne to place him into custody.

PO Ettienne grabbed § 87(2)(b)'s arms and attempted to place his hands behind his back, but § 87(2)(b) resisted by pulling his arms away from PO Ettienne and stepping backwards into traffic. PO Ettienne decided to bring § 87(2)(b) to the ground and put him into an arm bar while PO Bobe grabbed § 87(2)(b)'s legs. PO Ettienne explained that an arm bar is a maneuver used by the NYPD in which an officer grabs the suspects wrists to pulled them straight and then places his other hand on top of his elbow and exerts downward pressure to bring the suspect to the ground. § 87(2)(b) however, turned around, preventing the maneuver from working properly, and fell on the ground backwards rather than forwards, as was intended. PO Ettienne and PO Bobe fell to the ground with § 87(2)(b) in a heap, with PO Ettienne almost on top of PO Bobe. The officers struggled to bring § 87(2)(b) off the street and turn him around. All three officers were asking § 87(2)(b) to stop resisting. Sergeant Cotton observed that they were not having much success, approached them, and pepper sprayed § 87(2)(b). After being pepper sprayed, § 87(2)(b) stopped resisting somewhat. As PO Ettienne tried to pull § 87(2)(b)'s right arm out from under him, § 87(2)(b) was pulling it back. As a result, § 87(2)(b)'s elbow hit PO Ettienne's firearm in its holster two or three times as he pulled it out. Other than § 87(2)(b)'s elbow hitting PO Ettienne's firearm, § 87(2)(b) was not hit with a blunt object. PO Bobe was meanwhile holding § 87(2)(b)'s legs to prevent him from kicking and Sergeant Cotton stood by and observed, but did not get physically involved in the struggle. It took about 15-20 seconds to handcuff § 87(2)(b).

§ 87(2)(b) was still resisting as the officers tried to place him in the car. PO Bobe opened the car door and PO Ettienne attempted to place § 87(2)(b) in the vehicle but he did not want to place his legs inside. PO Bobe had to go around to the other side of the vehicle and pull § 87(2)(b) inside. PO Ettienne then remained with § 87(2)(b) in the back of the car, from where he observed PO Bobe and

Sergeant Cotton searched § 87(2)(b)'s car for the vehicle registration. PO Ettienne saw them open the glove compartment, the center console, and the visors and look in the back seat. The vehicle's registration was verified at the scene and they moved the car so that they could leave it parked legally. Meanwhile, PO Ettienne leaned § 87(2)(b) out of the car and washed his eyes out with water. PO Ettienne had removed § 87(2)(b)'s wallet from his pocket in a search incident to lawful arrest, and removed his identification and a PBA card. § 87(2)(b) informed him that he had a relative who is an NYPD police officer.

§ 87(2)(b) was then transported to the 67th Precinct. PO Ettienne stated that § 87(2)(b) may have been treated by EMS at the scene but that it was possible that § 87(2)(b) had refused medical attention. At the station house, PO Ettienne contacted § 87(2)(b)'s relative. He then issued § 87(2)(b) a summons for § 87(2)(b) for fighting with the officers. He did not issue summonses for the motor vehicle law violations to extend a courtesy to § 87(2)(b) because his relative is an NYPD officer. At the Precinct, § 87(2)(b) informed PO Ettienne that he was upset because he had had an altercation with his wife earlier and because he had been pulled over multiple times.

PO Ettienne did not use or hear any strong language used during the incident and did not say or hear any officer say words to the effect of, "Stand the fuck up," "What the fuck is wrong with you," "Put your goddamn leg in the car before I break your goddamn foot," or "Who the fuck do you think you are, I'll fuck you up." PO Ettienne did not threaten § 87(2)(b) with the use of force.

Sergeant Raymond Cotton

Sergeant Raymond Cotton does not have any memo book entries regarding this incident (encl. 15A-B). Sergeant Cotton was interviewed at the CCRB on June 7, 2007 (encl. 16A-B). On January 11, 2007, he was assigned to anticrime and worked with PO Vaughan Ettienne, who was driving, and PO Pedro Bobe in an unmarked vehicle. At about 11:45pm, PO Ettienne and PO Bobe observed a vehicle with dark tinted windows make an illegal left turn. Sergeant Cotton did not himself see this and it was PO Ettienne's decision to stop the vehicle because he was the driver that day. After PO Ettienne stopped the vehicle, he approached it on the driver's side and PO Bobe approached the vehicle on the passenger's side. Sergeant Cotton exited the police vehicle but remained near it. At that distance he could not hear what was being said. PO Ettienne and PO Bobe spoke to § 87(2)(b) for about five seconds before § 87(2)(b) exited the vehicle. Sergeant Cotton was unsure whether § 87(2)(b) was asked to exit the vehicle, but he had opened the door himself. Immediately after leaving the vehicle, § 87(2)(b) began to act irate and was flailing his arms and yelling words to the effect of, "Get off me." PO Bobe began walking around the front of the car towards PO Ettienne and § 87(2)(b). PO Ettienne grabbed § 87(2)(b) and attempted to bring him to the ground but § 87(2)(b) was struggling. PO Bobe then assisted by grabbing § 87(2)(b)'s legs and the officers were able to bring § 87(2)(b) to the ground. § 87(2)(b) landed on his back and resisted being turned over to be handcuffed. Sergeant Cotton did not strike § 87(2)(b) with a blunt object and did not observe either officer do so. Because § 87(2)(b) continued fighting and resisting on the ground, Sergeant Cotton approached them and pepper sprayed § 87(2)(b) once. § 87(2)(b) became more compliant and allowed himself to be turned over and handcuffed. PO Ettienne and PO Bobe then lifted up § 87(2)(b) and placed him in the car. He was not resisting at this time, but the officers had some trouble doing this because § 87(2)(b) could not see because of the pepper spray. Sergeant Cotton did not hear any officer say words to the effect of, "Stand the fuck up," or, "Put your fucking leg in the car before I break your goddamn foot." He did not hear PO Ettienne verbally threaten § 87(2)(b) with the use of force. After the car's registration was verified at the scene through a computer check, PO Bobe parked the car. The car was not searched. Meanwhile, PO Ettienne washed out § 87(2)(b)'s eyes with water.

§ 87(2)(b) was then brought to the precinct, where identification was obtained from him. § 87(2)(b) informed the officers that he had a relative who was an NYPD officer and PO Ettienne contacted this individual. § 87(2)(b) received a summons for § 87(2)(b) but Sergeant Cotton did not recall if summonses were issued for motor vehicle law violations. He did not recall whether any medical attention was provided other than § 87(2)(b)'s eyes washed out at the scene.

PO Pedro Bobe

PO Pedro Bobe's memo book has no entries regarding this incident (encl. 17A-B). PO Bobe was interviewed at the CCRB on June 6, 2007 (encl. 18A-B). He stated that on January 11, 2007, he was assigned to anticrime with PO Vaughan Ettienne and Sergeant Raymond Cotton and worked in an unmarked vehicle. At about 11:45pm, they pulled over a vehicle on Union Street for making a left turn without signaling and having dark tinted windows. PO Bobe did not recall who first observed this or whose decision it was to pull over the car, but stated that it was probably a group decision. PO Ettienne approached the driver while PO Bobe remained towards the back of the vehicle on the driver's side. PO Bobe did not recall where Sergeant Cotton was. PO Ettienne asked § 87(2)(b) for his license and registration, but § 87(2)(b) did not produce them either because he refused to do so or because he did not have them. PO Ettienne asked § 87(2)(b) to step out of the vehicle and § 87(2)(b) complied. PO Ettienne then asked § 87(2)(b) to step to the back of the vehicle but § 87(2)(b) refused to do so and began flailing his arms and saying words to the effect of, "This is bullshit." PO Ettienne put his hand out to prevent § 87(2)(b) from flailing his arms, and they both grabbed onto each other and began to struggle. PO Bobe assisted by grabbing § 87(2)(b) but could not specify where on § 87(2)(b)'s body he grabbed him. They all then fell to the ground, but PO Bobe could not describe how this occurred. While they were struggling to handcuff § 87(2)(b) on the ground, someone pepper sprayed § 87(2)(b). PO Bobe did not know who pepper sprayed § 87(2)(b) but stated that he did not do so. During the struggle, § 87(2)(b) was not struck with any blunt object. It took about 20 seconds to handcuff § 87(2)(b). Sergeant Cotton did not become physically involved in the struggle at any point. After being handcuffed, § 87(2)(b) was placed in the police car. § 87(2)(b) was compliant at this point and no force was necessary. PO Bobe did not recall PO Ettienne ever verbally threatening to use force against § 87(2)(b) or say words to the effect of, "Put your fucking leg in the car before I break your goddamn foot." PO Bobe did not assist in placing § 87(2)(b) in the car but remained with him in the back of the police vehicle while the other officers searched the car. They did this because they were concerned that there was a weapon in the car. PO Bobe does not recall any medical treatment provided or § 87(2)(b)'s eyes washed out. At the precinct, § 87(2)(b) informed PO Ettienne that he had a relative who was an NYPD officer, but PO Ettienne was unable to contact this individual. § 87(2)(b) was released with a summons for § 87(2)(b). PO Bobe did not recall whether or not § 87(2)(b) received summonses for the motor vehicle violations.

Medical Records

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (encl. 19A-G). § 87(2)(b) arrived at § 87(2)(b) complaining of muscle pain and pain in his elbow "after being assaulted by the police around midnight last night." X-rays were taken of § 87(2)(b)'s left elbow and spine. They showed no evidence of fracture or dislocation to the left elbow but that there was mild posterior soft tissue swelling. § 87(2)(b) was prescribed Motrin.

Command Log

The 67th Precinct command log (encl. 21) shows that § 87(2)(b) was logged in as a new arrest at 12:10 am on January 12, 2007 and released with a criminal summons at 1:15am.

Summons

Although the CCRB was unable to obtain a copy of the criminal summons issued to § 87(2)(b) the summons number was noted in the command log. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) s Criminal Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

§ 87(2)(b) has not filed any other complaints with the CCRB (encl. 5).

Officers' CCRB History

In his six years with the NYPD, PO Ettienne does not have any substantiated CCRB allegations (encl. 2). In his six years with the NYPD, PO Bobe also does not have any substantiated CCRB allegations (encl. 3). In his 13 years with the NYPD, Sergeant Cotton does not have any substantiated CCRB allegations (encl. 4).

Conclusions and Recommendations

Undisputed Facts

§ 87(2)(g) It is not disputed that § 87(2)(b) was pulled over by PO Ettienne and asked to step out of the vehicle. It is not disputed that § 87(2)(b) complied in stepping out of the vehicle but argued when PO Ettienne asked him to step to the back of the vehicle. It is not disputed that officers struggled with § 87(2)(b) that he was brought to the ground and pepper sprayed.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

§ 87(2)(b) mentioned several discourtesies in his telephone statement, such as "Stand the fuck up," and "Your § 87(2)(b) is a cop and you are so fucking stupid?" that he neglected to report during his in person interview. § 87(2)(g)

§ 87(2)(g)

PO Ettienne explained that although he never intentionally struck § 87(2)(b) with a blunt object, he repeatedly attempted to pull § 87(2)(b)'s arm out from under him and because § 87(2)(b) was resisting by pulling his arm back, § 87(2)(b)'s elbow hit PO Ettienne's firearm in its holster several times. § 87(2)(b) on the other hand, stated that PO Ettienne struck him on the elbow multiple times with a blunt object as he pulled his arm out from beneath him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) also alleged that while he was on the ground, he could see that Sergeant Cotton and PO Bobe were searching his car. PO Ettienne stated that after § 87(2)(b) was placed in the police car, Sergeant Cotton and PO Bobe searched § 87(2)(b)'s car for his identification. PO Bobe, on the other hand, stated that the car was searched for weapons by PO Ettienne and Sergeant Cotton, and Sergeant Cotton stated that the car was not searched. § 87(2)(g)

§ 87(2)(b) further alleged that when PO Ettienne was helping him into the police car, he threatened § 87(2)(b) with physical force if § 87(2)(b) did not place his legs in the car. § 87(2)(b) stated that although he was not actively resisting, he had some trouble getting his legs into the car because he was rear handcuffed and therefore in an awkward position. PO Ettienne stated that § 87(2)(b) was still resisting when he was being placed in the car and refused to place his legs inside but denied making the above statement. PO Ettienne stated that he required PO Bobe's assistance to get § 87(2)(b) into the car. PO Bobe, on the other hand, stated that § 87(2)(b) was compliant while Sergeant Cotton stated that § 87(2)(b) was not actively resisting but that PO Ettienne and PO Bobe had trouble getting § 87(2)(b) into the car because he could not see due to the pepper spray. PO Bobe and Sergeant Cotton also denied that PO Ettienne made the above statement. § 87(2)(g)

Allegation A: PO Vaughan Ettienne stopped the car in which § 87(2)(b) was an occupant.

It is not disputed that § 87(2)(b) was pulled over by officers for a violation of the motor vehicle law.

§ 87(2)(g)

Allegation B: PO Vaughan Ettienne used physical force against § 87(2)(b)

It is not disputed that PO Ettienne used physical force to restrain § 87(2)(b) and place him under arrest. § 87(2)(b) acknowledged that he had argued with PO Ettienne refused to comply with PO Ettienne's instructions to go to the back of his car and that this led to PO Ettienne's use of physical force against him. PO Ettienne corroborated this, but added that § 87(2)(b) began to act in a disorderly manner by talking loudly, cursing, and flailing his arms. He stated also that § 87(2)(b) was refusing to provide identification for himself and the vehicle, which the officers needed in order to issue him a summons. Sergeant Cotton then directed PO Ettienne to place § 87(2)(b) under arrest. Although § 87(2)(b) stated that PO Ettienne brought him to the ground before without first trying to handcuff him, PO Ettienne stated that he did this with PO Bobe's help and only after attempting to handcuff § 87(2)(b).

§ 87(2)(b) § 87(2)(g)

Allegation C: PO Vaughan Ettienne struck § 87(2)(b) with a blunt instrument.

Allegation D: An officer struck § 87(2)(b) with a blunt instrument.

§ 87(2)(g)

Allegation E: PO Vaughan Ettienne spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(g)

Allegation F: Sergeant Raymond Cotton searched the car in which § 87(2)(b) was an occupant.
Allegation G: PO Pedro Bobe searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g) s car. Sergeant Cotton stated that the car was not searched and PO Bobe stated that the car was searched for weapons. The NYPD patrol guide (encl. 1B-C) indicates that an inventory search of a vehicle can be conducted any time a vehicle comes into Department Custody. § 87(2)(g)

Allegation H: Sergeant Raymond Cotton used pepper spray against § 87(2)(b)

It is not disputed that Sergeant Cotton used pepper spray against § 87(2)(b) Sergeant Cotton stated that he did this because PO Ettienne and PO Bobe had been struggling with § 87(2)(b) who was resisting arrest, for some time and did not appear to be making any progress. § 87(2)(g)

The NYPD Patrol Guide (encl. 1A) states that pepper spray can be used to, “establish control of a subject resisting arrest.” § 87(2)(g)

Allegation I: PO Vaughan Ettienne threatened § 87(2)(b) with the use of force.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: